

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**ANTHONY CANTU AND RONALD
LOREDO, on behalf of themselves and a
class of those similarly situated,**

Plaintiffs,

v.

MILBERGER LANDSCAPING, INC.,

Defendant.

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Civil Action No.

SA:13-CA-731-HLH

Collective Action Pursuant to 29

U.S.C. §216(b)

Jury Demanded

**PLAINTIFFS' APPENDIX IN SUPPORT OF THEIR MOTION TO
QUASH AND FOR PROTECTIVE ORDER**

Plaintiffs file this Appendix in Support of their Motion to Quash and for Protective Order pursuant to Local Rule CV-7(d)(1).

Plaintiffs file the following documents in support of the facts forming the basis for their Motion to Quash and for Protective Order:

Exhibit A

Subpoenas to Twelve Non-Party Entities

Respectfully submitted,

MORELAND LAW FIRM, P.C.
13590 Ranch Road 12
Wimberley, Texas 78676
Tel (512) 782-0567
Fax (512) 782-0605

By: /s/ Edmond S. Moreland, Jr.

Edmond S. Moreland Jr.
Texas State Bar No. 24002644
edmond@morelandlaw.com

Philip J. Moss
Texas State Bar No. 24074764
pmoss@equaljusticecenter.org
EQUAL JUSTICE CENTER
6609 Blanco Road, Ste. 260
San Antonio, Texas 78216
Tel (210) 308-6222, ext. 102
Fax (210) 308-6223

Counsel for Plaintiffs

Certificate of Service

The undersigned hereby certifies that, on this the 25th day of February, 2014, he submitted the foregoing instrument for filing through the Court's Case Management / Electronic Case Filing System. The following counsel of record shall be served with a true and correct copy of this pleading, and all attachments, by operation of the Court's CM / ECF System:

Mr. Gerald T. Drought
Mr. Mathis B. Bishop
MARTIN & DROUGHT, P.C.
Bank of America Plaza, 25th Floor
300 Convent Street
San Antonio, Texas 78205

/s/ Edmond S. Moreland, Jr.
Edmond S. Moreland, Jr.

Exhibit A

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ANTHONY CANTU AND RONALD LOREDO
ON BEHALF OF THEMSELVES AND A
CLASS OF THOSE SIMILARLY SITUATED

VS

MILBERGER LANDSCAPING, INC.

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CIVIL ACTION NO. 5:13-CV-731

NOTICE OF INTENTION TO TAKE DEPOSITION
BY WRITTEN QUESTIONS

TO:
EDMOND S. MORELAND JR

PHILIP J. MOSS

You will take notice that after 14 days from the service of a copy hereof with attached questions, a deposition by written questions will be taken of the CUSTODIAN OF RECORDS for:

ALAMO CITY MEDICAL GROUP (THOUSAND OAKS)
2235 THOUSAND OAKS STE 117
SAN ANTONIO, TX 78232

at the offices of LORR, or at another agreed upon time and/or place before a Notary Public, an Officer of the State of Texas and employee of LORR, 603 E. Ramsey, Suite 201, San Antonio TX 78216, or their designated agent. Which deposition, with attached questions, may be used in evidence upon the trial of the above styled and numbered cause pending in the above named Court.

Notice is further given that request is here made as authorized under Rule 30 and 31, Federal Rules of Civil Procedure, to the Officer authorized to take this deposition to issue a SUBPOENA DUCES TECUM pursuant to FRCP 45 and cause to be served on the witness to produce for inspection and photocopying: Any and all laboratory test results, drug screen results and/or specimen results

pertaining to: ANTHONY CANTU, DOB: [REDACTED] 1969 and turn all such records over to the Officer authorized to take this deposition for inspection and photocopying, the same may be made by him and attached to said deposition.



GERALD T. DROUGHT, SBID: 08134800
MARTIN & DROUGHT PC
300 CONVENT STREET 26TH FLOOR
SAN ANTONIO, TX 78205--3789
Ph: (210) 227-7591 Fax: (210) 227-7924
ATTORNEY FOR THE DEFENDANT

CERTIFICATE OF SERVICE

I certify that a true and exact copy of the foregoing Notice of Intention to Take Deposition by Written Questions was provided to the respective parties or attorneys of record, pursuant to Rule 5(b) of the FRCP, by registered mail, postage prepaid or hand delivered.

Date:

2-24-14

By:



GERALD T. DROUGHT

ANTHONY CANTU AND RONALD
LOREDO ON BEHALF OF THEMSELVES
AND A CLASS OF THOSE SIMILARLY
SITUATED
VS

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CIVIL ACTION NO. 5:13-CV-731

MILBERGER LANDSCAPING, INC.

QUESTIONS TO BE PROPOUNDED TO THE WITNESS,
THE CUSTODIAN OF RECORDS FOR: ALAMO CITY MEDICAL GROUP (THOUSAND OAKS)

1. Please state your full name, occupation, and/or official title.

ANSWER _____

2. Did you receive a Subpoena Duces Tecum for the production of: Any and all laboratory test results, drug screen results and/or specimen results pertaining to ANTHONY CANTU?

ANSWER _____

3. Are you able to identify these records as the original or true and correct photostatic copies of the originals?

ANSWER _____

4. Were these records made and kept in the regular course of your business? (Business means any kind of regularly organized activity, whether conducted for profit or not).

ANSWER _____

5. In the regular course of your business, did the person who signed or otherwise prepared these records either have personal knowledge of the entries on these records or obtain the information to make such records from sources who have such personal knowledge?

ANSWER _____

6. Are these records under your care, supervision, direction, custody or subject to your control?

ANSWER _____

7. Are these records made at or near the time of the act, event or condition recorded on the records, or reasonably soon thereafter pertaining to the incident in question?

ANSWER _____

8. Were these records kept as described above?

ANSWER _____

9. Have you been requested, directed, or has it ever been suggested by any person (whether doctor, lawyer or anyone else) that any part of the records subject to this deposition be withheld or protected from discovery for any reason? If so, please state the name and address of the person who conveyed this information to you and when such event occurred.

ANSWER _____

10. Are there any other locations where ALAMO CITY MEDICAL GROUP (THOUSAND OAKS) would keep records or documents pertaining to ANTHONY CANTU? If yes, please identify the name and address of that location, if known.

ANSWER _____

11. Please hand all such records as outlined in the Subpoena Duces Tecum to the Officer taking your deposition for inspection and photocopying. (These will be at no expense to you, and the Officer will return the originals of your records to you after they have been both inspected and copied). Have you done as requested? If not, why not?

ANSWER _____

12. Have any records of any kind been destroyed or are any records missing? If yes, why? Please describe those records that have been destroyed or are missing by ALAMO CITY MEDICAL GROUP (THOUSAND OAKS).

ANSWER: _____

13. In the event that no records can be found, are there document archives (i.e. microfiche) or document retention policies which explain their absence? If yes, please explain your archiving and/or retention policy. Please identify who has knowledge of those archives and/or retention policies for ALAMO CITY MEDICAL GROUP (THOUSAND OAKS).

ANSWER: _____

WITNESS CUSTODIAN OF RECORDS

I, _____, A Notary Public in and for the State of Texas do hereby certify that the foregoing answers of the witness were made by the said witness and sworn to and subscribed before me. The records attached hereto are exact duplicates of the original records.

GIVEN UNDER MY HAND AND SEAL on this the _____ day of _____, 20____.

Notary Public in and for the State of Texas

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ANTHONY CANTU AND RONALD LOREDO
ON BEHALF OF THEMSELVES AND A
CLASS OF THOSE SIMILARLY SITUATED

VS

MILBERGER LANDSCAPING, INC.

CIVIL ACTION NO. 5:13-CV-731

NOTICE OF INTENTION TO TAKE DEPOSITION
BY WRITTEN QUESTIONS

TO:
EDMOND S. MORELAND JR

PHILIP J. MOSS


You will take notice that after 14 days from the service of a copy hereof with attached questions, a deposition by written questions will be taken of the CUSTODIAN OF EMPLOYMENT RECORDS for:

CUT RITE LANDSCAPING
26256 US HWY 281 N STE 4
SAN ANTONIO, TX 78258

at the offices of LORR, or at another agreed upon time and/or place before a Notary Public, an Officer of the State of Texas and employee of LORR, 503 E. Ramsey, Suite 201, San Antonio TX 78216, or their designated agent. Which deposition, with attached questions, may be used in evidence upon the trial of the above styled and numbered cause pending in the above named Court.

Notice is further given that request is here made as authorized under Rule 30 and 31, Federal Rules of Civil Procedure, to the Officer authorized to take this deposition to issue a SUBPOENA DUCES TECUM pursuant to FRCP 45 and cause to be served on the witness to produce for inspection and photocopying: ANY AND ALL RECORDS including but not limited to, employment records, any supervisor reports, W-2's, workers' compensation records, claims for unemployment compensation records, employment application forms, evaluations, payroll records, time cards, medical files, laboratory test results, pre-employment drug screen results and/or pre-employment specimen results, any subsequent drug screen results and/or subsequent specimen results, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced

pertaining to: ANTHONY CANTU, DOB: [REDACTED] 1969 and turn all such records over to the Officer authorized to take this deposition for inspection and photocopying, the same may be made by him and attached to said deposition.



GERALD T. DROUGHT, SBID: 06134800
MARTIN & DROUGHT PC
300 CONVENT STREET 25TH FLOOR
SAN ANTONIO, TX 78205-3789
Ph: (210) 227-7591 Fax: (210) 227-7924
ATTORNEY FOR THE DEFENDANT

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Date: 2-24-14

By:


GERALD T. DROUGHT

IN THE UNITED STATES DISTRICT COURT
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ANTHONY CANTU AND RONALD
LOREDO ON BEHALF OF
THEMSELVES AND A CLASS OF
THOSE SIMILARLY SITUATED

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MILBERGER LANDSCAPING, INC.

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CIVIL ACTION NO. 5:13-CV-731

QUESTIONS TO BE PROPOUNDED TO THE WITNESS,
THE CUSTODIAN OF EMPLOYMENT RECORDS FOR: CUT RITE LANDSCAPING

1. Please state your full name, occupation, and/or official title.

ANSWER: _____

2. Did you receive a subpoena duces tecum for the production of: ANY AND ALL RECORDS including but not limited to, employment records, any supervisor reports, W-2's, workers' compensation records, claims for unemployment compensation records, employment application forms, evaluations, payroll records, time cards, medical files, laboratory test results, pre-employment drug screen results and/or pre-employment specimen results; any subsequent drug screen results and/or subsequent specimen results, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced pertaining to ANTHONY CANTU?

ANSWER: _____

3. Do you understand the subpoena requests all records referenced in Question # 2 pertaining to ANTHONY CANTU and is not limited to just records and documents related to what you feel forms the basis for this lawsuit nor is it limited in scope or time or as to the type of record or document?

ANSWER: _____

4. Has ANTHONY CANTU ever been employed by CUT RITE LANDSCAPING?

ANSWER: _____

5. Has CUT RITE LANDSCAPING made or caused to be made any memorandum, report, record or data compilation, in any form, of the employment and/or interview of the person in question?

ANSWER: _____

6. Are these memorandum, reports, records or data compilations under your care, supervision, direction, custody and/or control?

ANSWER: _____

7. Were these memorandum, reports, records or data compilations made by CUT RITE LANDSCAPING?

ANSWER: _____

8. Please state whether or not it was in the regular course of business for a person with personal knowledge of the acts, events, conditions, opinions, or other data recorded to make the record or to transmit information thereof to be included in such record?

ANSWER: _____

9. Were the entries of these memorandum, reports, records or data compilations made at, or shortly after the time of the transaction recorded of these entries?

ANSWER: _____

10. Were these records made and kept in the regular course of business?

ANSWER: _____

11. Please hand exact duplicates of: ANY AND ALL RECORDS including but not limited to, employment records, any supervisor reports, W-2's, workers' compensation records, claims for unemployment compensation records, employment application forms, evaluations, payroll records, time cards, medical files, laboratory test results, pre-employment drug screen results and/or pre-employment specimen results, any subsequent drug screen results and/or subsequent specimen results, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced pertaining to ANTHONY CANTU or the originals thereof for photocopying to the notary public taking your deposition for attachment to this deposition (This should include but is not limited to employment records, any supervisor reports, W-2's, workers' compensation records, employment application forms, evaluations, payroll records, time cards, medical files, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced). Have you now provided all your employment records and documents pertaining to ANTHONY CANTU? If not, identify for the notary public the records and documents you did not produce and explain why you did not produce them.

ANSWER: _____

12. Are there any other locations where records or documents pertaining to ANTHONY CANTU would be kept by CUT RITE LANDSCAPING? If yes, please identify the name and address of that location if known.

ANSWER: _____

13. Have any records of any kind been destroyed or are any records missing? If yes, why? Please describe those records that have been destroyed or are missing by CUT RITE LANDSCAPING.

ANSWER: _____

14 Have you been requested, directed, or has it ever been suggested by any person (whether employer, lawyer, or anyone else) that part of the records subject to this deposition be withheld or protected from discovery for any reason? If so, please state the name and address of the person who conveyed this information to you and when such event occurred.

ANSWER: _____

15. Do you know whether or not, or do you have any reason to believe that the records subject to this deposition have in any manner been edited, purged, culled, or in any other manner made different from the way such records existed when created? If so, please explain your knowledge or belief in the regard.

ANSWER: _____

WITNESS CUSTODIAN OF RECORDS

I, _____, A Notary Public in and for the State of Texas do hereby certify that the foregoing answers of the witness were made by the said witness and sworn to and subscribed before me. The records attached hereto are exact duplicates of the original records.

GIVEN UNDER MY HAND AND SEAL on this the _____ day of _____ 20____.

Notary Public in and for the State of Texas

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8. Please state whether or not it was in the regular course of business for a person with personal knowledge of the acts, events/conditions, opinions, or other data recorded to make the record or to transmit information thereof to be included in such record?

ANSWER: _____

9. Were the entries of these memorandum, reports, records or data compilations made at, or shortly after the time of the transaction recorded of these entries?

ANSWER: _____

10. Were these records made and kept in the regular course of business?

ANSWER: _____

11. Please hand exact duplicates of: ANY AND ALL RECORDS including but not limited to, employment records, any supervisor reports, W-2's, workers' compensation records, claims for unemployment compensation records, employment application forms, evaluations, payroll records, time cards, medical files, laboratory test results, pre-employment drug screen results and/or pre-employment specimen results, any subsequent drug screen results and/or subsequent specimen results, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced pertaining to ANTHONY CANTU or the originals thereof for photocopying to the notary public taking your deposition for attachment to this deposition (This should include but is not limited to employment records, any supervisor reports, W-2's, workers' compensation records, employment application forms, evaluations, payroll records, time cards, medical files, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced). Have you now provided all your employment records and documents pertaining to ANTHONY CANTU? If not, identify for the notary public the records and documents you did not produce and explain why you did not produce them.

ANSWER: _____

12. Are there any other locations where records or documents pertaining to ANTHONY CANTU would be kept by GREEN GRASS, INC? If yes, please identify the name and address of that location if known.

ANSWER: _____

13. Have any records of any kind been destroyed or are any records missing? If yes, why? Please describe those records that have been destroyed or are missing by GREEN GRASS, INC.

ANSWER: _____

14 Have you been requested, directed, or has it ever been suggested by any person (whether employer, lawyer, or anyone else) that part of the records subject to this deposition be withheld or protected from discovery for any reason? If so, please state the name and address of the person who conveyed this information to you and when such event occurred.

ANSWER: _____

15 Do you know whether or not, or do you have any reason to believe that the records subject to this deposition have in any manner been edited, purged, culled, or in any other manner made different from the way such records existed when created? If so, please explain your knowledge or belief in the regard.

ANSWER: _____

WITNESS CUSTODIAN OF RECORDS

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Notary Public in and for the State of Texas

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ANTHONY CANTU AND RONALD LOREDO
ON BEHALF OF THEMSELVES AND A
CLASS OF THOSE SIMILARLY SITUATED

VS

WHLBERGER LANDSCAPING, INC.

CIVIL ACTION NO. 5:13-CV-731

NOTICE OF INTENTION TO TAKE DEPOSITION
BY WRITTEN QUESTIONS

TO:
EDMOND S. MORELAND JR

PHILIP J. MOSS


You will take notice that after 14 days from the service of a copy hereof with attached questions, a deposition by written questions will be taken of the CUSTODIAN OF EMPLOYMENT RECORDS for:

BROOKWAY HORTICULTURAL SERVICES, INC
7935 FAIRBANKS WHITE OAK RD
HOUSTON, TX 77040

at the offices of LORR, or at another agreed upon time and/or place before a Notary Public, an Officer of the State of Texas and employee of LORR, 503 E. Ramsey, Suite 201, San Antonio TX 78216, or their designated agent. Which deposition, with attached questions, may be used in evidence upon the trial of the above styled and numbered cause pending in the above named Court.

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pertaining to: ANTHONY CANTU, DOB: [REDACTED] 1969 and turn all such records over to the Officer authorized to take this deposition for inspection and photocopying, the same may be made by him and attached to said deposition.


GERALD T. DROUGHT, SBID: 06134800
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300 CONVENT STREET 25TH FLOOR
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ATTORNEY FOR THE DEFENDANT


CERTIFICATE OF SERVICE

I certify that a true and exact copy of the foregoing Notice of Intention to Take Deposition by Written Questions was provided to the respective parties or attorneys of record, pursuant to Rule 5(b) of the FRCP, by registered mail, postage prepaid or hand delivered.

Date:

2-24-14

By:


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IN THE UNITED STATES DISTRICT COURT
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SAN ANTONIO DIVISION

ANTHONY CANTU AND RONALD
LOREDO ON BEHALF OF
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V.S.

MILBERGER LANDSCAPING, INC.

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CIVIL ACTION NO. 5:13-CV-731

QUESTIONS TO BE PROPOUNDED TO THE WITNESS,
THE CUSTODIAN OF EMPLOYMENT RECORDS FOR: BROOKWAY HORTICULTURAL SERVICES,
INC

1. Please state your full name, occupation, and/or official title.

ANSWER: _____

2. Did you receive a subpoena duces tecum for the production of: ANY AND ALL RECORDS including but not limited to, employment records, any supervisor reports, W-2's, workers' compensation records, claims for unemployment compensation records, employment application forms, evaluations, payroll records, time cards, medical files, laboratory test results, pre-employment drug screen results and/or pre-employment specimen results, any subsequent drug screen results and/or subsequent specimen results, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced pertaining to ANTHONY CANTU?

ANSWER: _____

3. Do you understand the subpoena requests all records referenced in Question # 2 pertaining to ANTHONY CANTU and is not limited to just records and documents related to what you feel forms the basis for this lawsuit nor is it limited in scope or time or as to the type of record or document?

ANSWER: _____

4. Has ANTHONY CANTU ever been employed by BROOKWAY HORTICULTURAL SERVICES, INC?

ANSWER: _____

5. Has BROOKWAY HORTICULTURAL SERVICES, INC made or caused to be made any memorandum, report, record or data compilation, in any form, of the employment and/or interview of the person in question?

ANSWER: _____

6. Are these memorandum, reports, records or data compilations under your care, supervision, direction, custody and/or control?

ANSWER: _____

7. Were these memorandum, reports, records or data compilations made by BROOKWAY HORTICULTURAL SERVICES, INC?

ANSWER: _____

8. Please state whether or not it was in the regular course of business for a person with personal knowledge of the acts, events, conditions, opinions, or other data recorded to make the record or to transmit information thereof to be included in such record?

ANSWER: _____

9. Were the entries of these memorandum, reports, records or data compilations made at, or shortly after the time of the transaction recorded of these entries?

ANSWER: _____

10. Were these records made and kept in the regular course of business?

ANSWER: _____

11. Please hand exact duplicates of: ANY AND ALL RECORDS including but not limited to, employment records, any supervisor reports, W-2's, workers' compensation records, claims for unemployment compensation records, employment application forms, evaluations, payroll records, time cards, medical files, laboratory test results, pre-employment drug screen results and/or pre-employment specimen results, any subsequent drug screen results and/or subsequent specimen results, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced pertaining to ANTHONY CANTU or the originals thereof for photocopying to the notary public taking your deposition for attachment to this deposition (This should include but is not limited to employment records, any supervisor reports, W-2's, workers' compensation records, employment application forms, evaluations, payroll records, time cards, medical files, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced). Have you now provided all your employment records and documents pertaining to ANTHONY CANTU? If not, identify for the notary public the records and documents you did not produce and explain why you did not produce them.

ANSWER: _____

12. Are there any other locations where records or documents pertaining to ANTHONY CANTU would be kept by BROOKWAY HORTICULTURAL SERVICES, INC? If yes, please identify the name and address of that location if known.

ANSWER: _____

13. Have any records of any kind been destroyed or are any records missing? If yes, why? Please describe those records that have been destroyed or are missing by BROOKWAY HORTICULTURAL SERVICES, INC.

ANSWER: _____

14 Have you been requested, directed, or has it ever been suggested by any person (whether employer, lawyer, or anyone else) that part of the records subject to this deposition be withheld or protected from discovery for any reason? If so, please state the name and address of the person who conveyed this information to you and when such event occurred.

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15. Do you know whether or not, or do you have any reason to believe that the records subject to this deposition have in any manner been edited, purged, culled, or in any other manner made different from the way such records existed when created? If so, please explain your knowledge or belief in the regard.

ANSWER: _____

WITNESS CUSTODIAN OF RECORDS

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CIVIL ACTION NO. 5:13-CV-731

NOTICE OF INTENTION TO TAKE DEPOSITION
BY WRITTEN QUESTIONS

TO:
EDMOND S. MORELAND JR

PHILIP J. MOSS


You will take notice that after 14 days from the service of a copy hereof with attached questions, a deposition by written questions will be taken of the CUSTODIAN OF EMPLOYMENT RECORDS for:

DISTRIBUTION CONSTRUCTION LLC
P.O. BOX 16207
GREENSBORO, NC 27416

at the offices of LORR, or at another agreed upon time and/or place before a Notary Public, an Officer of the State of Texas and employee of LORR, 503 E. Ramsey, Suite 201, San Antonio TX 78216, or their designated agent. Which deposition, with attached questions, may be used in evidence upon the trial of the above styled and numbered cause pending in the above named Court.

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pertaining to: ANTHONY CANTU, DOB: [REDACTED] 1969 and turn all such records over to the Officer authorized to take this deposition for inspection and photocopying, the same may be made by him and attached to said deposition.


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SAN ANTONIO, TX 78205-3789
Ph: (210) 227-7591 Fax: (210) 227-7924
ATTORNEY FOR THE DEFENDANT

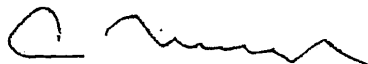
CERTIFICATE OF SERVICE

I certify that a true and exact copy of the foregoing Notice of Intention to Take Deposition by Written Questions was provided to the respective parties or attorneys of record, pursuant to Rule 5(b) of the FRCP, by registered mail, postage prepaid or hand delivered.

Date:

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IN THE UNITED STATES DISTRICT COURT
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ANTHONY CANTU AND RONALD
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CIVIL ACTION NO. 5:13-CV-731

QUESTIONS TO BE PROPOUNDED TO THE WITNESS,
THE CUSTODIAN OF EMPLOYMENT RECORDS FOR: DISTRIBUTION CONSTRUCTION LLC

1. Please state your full name, occupation, and/or official title.

ANSWER: _____

2. Did you receive a subpoena duces tecum for the production of: ANY AND ALL RECORDS including but not limited to, employment records, any supervisor reports, W-2's, workers' compensation records, claims for unemployment compensation records, employment application forms, evaluations, payroll records, time cards, medical files, laboratory test results, pre-employment drug screen results and/or pre-employment specimen results; any subsequent drug screen results and/or subsequent specimen results, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced pertaining to ANTHONY CANTU?

ANSWER: _____

3. Do you understand the subpoena requests all records referenced in Question # 2 pertaining to ANTHONY CANTU and is not limited to just records and documents related to what you feel forms the basis for this lawsuit nor is it limited in scope or time or as to the type of record or document?

ANSWER: _____

4. Has ANTHONY CANTU ever been employed by DISTRIBUTION CONSTRUCTION LLC?

ANSWER: _____

5. Has DISTRIBUTION CONSTRUCTION LLC made or caused to be made any memorandum, report, record or data compilation, in any form, of the employment and/or interview of the person in question?

ANSWER: _____

6. Are these memorandum, reports, records or data compilations under your care, supervision, direction, custody and/or control?

ANSWER: _____

7. Were these memorandum, reports, records or data compilations made by DISTRIBUTION CONSTRUCTION LLC?

ANSWER: _____

8. Please state whether or not it was in the regular course of business for a person with personal knowledge of the acts, events, conditions, opinions, or other data recorded to make the record or to transmit information thereof to be included in such record?

ANSWER: _____

9. Were the entries of these memorandum, reports, records or data compilations made at, or shortly after the time of the transaction recorded of these entries?

ANSWER: _____

10. Were these records made and kept in the regular course of business?

ANSWER: _____

11. Please hand exact duplicates of: ANY AND ALL RECORDS including but not limited to, employment records, any supervisor reports, W-2's, workers' compensation records, claims for unemployment compensation records, employment application forms, evaluations, payroll records, time cards, medical files, laboratory test results, pre-employment drug screen results and/or pre-employment specimen results, any subsequent drug screen results and/or subsequent specimen results, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced pertaining to ANTHONY CANTU or the originals thereof for photocopying to the notary public taking your deposition for attachment to this deposition (This should include but is not limited to employment records, any supervisor reports, W-2's, workers' compensation records, employment application forms, evaluations, payroll records, time cards, medical files, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced). Have you now provided all your employment records and documents pertaining to ANTHONY CANTU? If not, identify for the notary public the records and documents you did not produce and explain why you did not produce them.

ANSWER: _____

12. Are there any other locations where records or documents pertaining to ANTHONY CANTU would be kept by DISTRIBUTION CONSTRUCTION LLC? If yes, please identify the name and address of that location if known.

ANSWER: _____

13. Have any records of any kind been destroyed or are any records missing? If yes, why? Please describe those records that have been destroyed or are missing by DISTRIBUTION CONSTRUCTION LLC.

ANSWER: _____

14 Have you been requested, directed, or has it ever been suggested by any person (whether employer, lawyer, or anyone else) that part of the records subject to this deposition be withheld or protected from discovery for any reason? If so, please state the name and address of the person who conveyed this information to you and when such event occurred.

ANSWER: _____

15. Do you know whether or not, or do you have any reason to believe that the records subject to this deposition have in any manner been edited, purged, culled, or in any other manner made different from the way such records existed when created? If so, please explain your knowledge or belief in the regard.

ANSWER: _____

WITNESS CUSTODIAN OF RECORDS

I, _____, A Notary Public in and for the State of North Carolina do hereby certify that the foregoing answers of the witness were made by the said witness and sworn to and subscribed before me. The records attached hereto are exact duplicates of the original records.

GIVEN UNDER MY HAND AND SEAL on this the _____ day of _____ 20____.

Notary Public in and for the State of North Carolina

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ANTHONY CANTU AND RONALD LOREDO
ON BEHALF OF THEMSELVES AND A
CLASS OF THOSE SIMILARLY-SITUATED

VS

BERGER LANDSCAPING, INC.

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CIVIL ACTION NO. 5:13-CV-731

NOTICE OF INTENTION TO TAKE DEPOSITION
BY WRITTEN QUESTIONS

TO:
EDMOND S. MORELAND JR

PHILIP J. MOSS

You will take notice that after 14 days from the service of a copy hereof with attached questions, a deposition by written questions will be taken of the CUSTODIAN OF EMPLOYMENT RECORDS for:

ROGER'S GARDEN
331 E RAMSEY
SAN ANTONIO, TX 78216

at the offices of LORR, or at another agreed upon time and/or place before a Notary Public, an Officer of the State of Texas and employee of LORR, 503 E. Ramsey, Suite 201, San Antonio TX 78216, or their designated agent. Which deposition, with attached questions, may be used in evidence upon the trial of the above styled and numbered cause pending in the above named Court.

Notice is further given that request is here made as authorized under Rule 30 and 31, Federal Rules of Civil Procedure, to the Officer authorized to take this deposition to issue a SUBPOENA DUCES TECUM pursuant to FRCP 45 and cause to be served on the witness to produce for inspection and photocopying: ANY AND ALL RECORDS including but not limited to, employment records, any supervisor reports, W-2's, workers' compensation records, claims for unemployment compensation records, employment application forms, evaluations, payroll records, time cards, medical files, laboratory test results, pre-employment drug screen results and/or pre-employment specimen results, any subsequent drug screen results and/or subsequent specimen results, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced

pertaining to: ANTHONY CANTU, DOB: [REDACTED]/1969 and turn all such records over to the Officer authorized to take this deposition for inspection and photocopying, the same may be made by him and attached to said deposition.



GERALD T. DROUGHT, SBID: 06134800
MARTIN & DROUGHT PC
300 CONVENT STREET 25TH FLOOR
SAN ANTONIO, TX 78205-3789
Ph: (210) 227-7591 Fax: (210) 227-7924
ATTORNEY FOR THE DEFENDANT

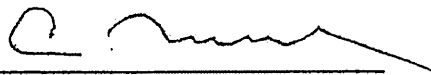
CERTIFICATE OF SERVICE

I certify that a true and exact copy of the foregoing Notice of Intention to Take Deposition by Written Questions was provided to the respective parties or attorneys of record, pursuant to Rule 5(b) of the FRCP, by registered mail, postage prepaid or hand delivered.

Date:

2-24-14

By:



GERALD T. DROUGHT

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ANTHONY CANTU AND RONALD
LOREDO ON BEHALF OF
THEMSELVES AND A CLASS OF
THOSE SIMILARLY SITUATED

VS

MILBERGER LANDSCAPING, INC.

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CIVIL ACTION NO. 5:13-CV-731

QUESTIONS TO BE PROPOUNDED TO THE WITNESS,
THE CUSTODIAN OF EMPLOYMENT RECORDS FOR: ROGER'S GARDEN

1. Please state your full name, occupation, and/or official title.

ANSWER: _____

2. Did you receive a subpoena duces tecum for the production of: ANY AND ALL RECORDS including but not limited to, employment records, any supervisor reports, W-2's, workers' compensation records, claims for unemployment compensation records, employment application forms, evaluations, payroll records, time cards, medical files, laboratory test results, pre-employment drug screen results and/or pre-employment specimen results; any subsequent drug screen results and/or subsequent specimen results, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced pertaining to ANTHONY CANTU?

ANSWER: _____

3. Do you understand the subpoena requests all records referenced in Question # 2 pertaining to ANTHONY CANTU and is not limited to just records and documents related to what you feel forms the basis for this lawsuit nor is it limited in scope or time or as to the type of record or document?

ANSWER: _____

4. Has ANTHONY CANTU ever been employed by ROGER'S GARDEN?

ANSWER: _____

5. Has ROGER'S GARDEN made or caused to be made any memorandum, report, record or data compilation, in any form, of the employment and/or interview of the person in question?

ANSWER: _____

6. Are these memorandum, reports, records or data compilations under your care, supervision, direction, custody and/or control?

ANSWER: _____

7. Were these memorandum, reports, records or data compilations made by ROGER'S GARDEN?

ANSWER: _____

8. Please state whether or not it was in the regular course of business for a person with personal knowledge of the acts, events, conditions, opinions, or other data recorded to make the record or to transmit information thereof to be included in such record?

ANSWER: _____

9. Were the entries of these memorandum, reports, records or data compilations made at, or shortly after the time of the transaction recorded of these entries?

ANSWER: _____

10. Were these records made and kept in the regular course of business?

ANSWER: _____

11. Please hand exact duplicates of: ANY AND ALL RECORDS including but not limited to, employment records, any supervisor reports, W-2's, workers' compensation records, claims for unemployment compensation records, employment application forms, evaluations, payroll records, time cards, medical files, laboratory test results, pre-employment drug screen results and/or pre-employment specimen results, any subsequent drug screen results and/or subsequent specimen results, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced pertaining to ANTHONY CANTU or the originals thereof for photocopying to the notary public taking your deposition for attachment to this deposition (This should include but is not limited to employment records, any supervisor reports, W-2's, workers' compensation records, employment application forms, evaluations, payroll records, time cards, medical files, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced). Have you now provided all your employment records and documents pertaining to ANTHONY CANTU? If not, identify for the notary public the records and documents you did not produce and explain why you did not produce them.

ANSWER: _____

12. Are there any other locations where records or documents pertaining to ANTHONY CANTU would be kept by ROGER'S GARDEN? If yes, please identify the name and address of that location if known.

ANSWER: _____

13. Have any records of any kind been destroyed or are any records missing? If yes, why? Please describe those records that have been destroyed or are missing by ROGER'S GARDEN.

ANSWER: _____

14 Have you been requested, directed, or has it ever been suggested by any person (whether employer, lawyer, or anyone else) that part of the records subject to this deposition be withheld or protected from discovery for any reason? If so, please state the name and address of the person who conveyed this information to you and when such event occurred.

ANSWER: _____

15. Do you know whether or not, or do you have any reason to believe that the records subject to this deposition have in any manner been edited, purged, culled, or in any other manner made different from the way such records existed when created? If so, please explain your knowledge or belief in the regard.

ANSWER: _____

WITNESS CUSTODIAN OF RECORDS

I, _____, A Notary Public in and for the State of Texas do hereby certify that the foregoing answers of the witness were made by the said witness and sworn to and subscribed before me. The records attached hereto are exact duplicates of the original records.

GIVEN UNDER MY HAND AND SEAL on this the _____ day of _____ 20____.

Notary Public in and for the State of Texas

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ANTHONY CANTU AND RONALD
LOREDO ON BEHALF OF
THEMSELVES AND A CLASS OF
THOSE SIMILARLY SITUATED

VS.

MILBERGER LANDSCAPING, INC.

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CIVIL ACTION NO. 5:13-CV-731

QUESTIONS TO BE PROPOUNDED TO THE WITNESS,
THE CUSTODIAN OF EMPLOYMENT RECORDS FOR: MALDONADO NURSERY AND
LANDSCAPING

1. Please state your full name, occupation, and/or official title.

ANSWER: _____

2. Did you receive a subpoena duces tecum for the production of: ANY AND ALL RECORDS including but not limited to, employment records, any supervisor reports, W-2's, workers' compensation records, claims for unemployment compensation records, employment application forms, evaluations, payroll records, time cards, medical files, laboratory test results, pre-employment drug screen results and/or pre-employment specimen results, any subsequent drug screen results and/or subsequent specimen results, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced pertaining to ANTHONY CANTU?

ANSWER: _____

3. Do you understand the subpoena requests all records referenced in Question # 2 pertaining to ANTHONY CANTU and is not limited to just records and documents related to what you feel forms the basis for this lawsuit nor is it limited in scope or time or as to the type of record or document?

ANSWER: _____

4. Has ANTHONY CANTU ever been employed by MALDONADO NURSERY AND LANDSCAPING?

ANSWER: _____

5. Has MALDONADO NURSERY AND LANDSCAPING made or caused to be made any memorandum, report, record or data compilation, in any form, of the employment and/or interview of the person in question?

ANSWER: _____

6. Are these memorandum, reports, records or data compilations under your care, supervision, direction, custody and/or control?

ANSWER: _____

7. Were these memorandum, reports, records or data compilations made by MALDONADO NURSERY AND LANDSCAPING?

ANSWER: _____

8. Please state whether or not it was in the regular course of business for a person with personal knowledge of the acts, events, conditions, opinions, or other data recorded to make the record or to transmit information thereof to be included in such record?

ANSWER: _____

9. Were the entries of these memorandum, reports, records or data compilations made at, or shortly after the time of the transaction recorded of these entries?

ANSWER: _____

10. Were these records made and kept in the regular course of business?

ANSWER: _____

11. Please hand exact duplicates of: ANY AND ALL RECORDS including but not limited to, employment records, any supervisor reports, W-2's, workers' compensation records, claims for unemployment compensation records, employment application forms, evaluations, payroll records, time cards, medical files, laboratory test results, pre-employment drug screen results and/or pre-employment specimen results, any subsequent drug screen results and/or subsequent specimen results, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced pertaining to ANTHONY CANTU or the originals thereof for photocopying to the notary public taking your deposition for attachment to this deposition (This should include but is not limited to employment records, any supervisor reports, W-2's, workers' compensation records, employment application forms, evaluations, payroll records, time cards, medical files, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced). Have you now provided all your employment records and documents pertaining to ANTHONY CANTU? If not, identify for the notary public the records and documents you did not produce and explain why you did not produce them.

ANSWER: _____

12. Are there any other locations where records or documents pertaining to ANTHONY CANTU would be kept by MALDONADO NURSERY AND LANDSCAPING? If yes, please identify the name and address of that location if known.

ANSWER: _____

13. Have any records of any kind been destroyed or are any records missing? If yes, why? Please describe those records that have been destroyed or are missing by MALDONADO NURSERY AND LANDSCAPING.

ANSWER: _____

14 Have you been requested, directed, or has it ever been suggested by any person (whether employer, lawyer, or anyone else) that part of the records subject to this deposition be withheld or protected from discovery for any reason? If so, please state the name and address of the person who conveyed this information to you and when such event occurred.

ANSWER: _____

15 Do you know whether or not, or do you have any reason to believe that the records subject to this deposition have in any manner been edited, purged, culled, or in any other manner made different from the way such records existed when created? If so, please explain your knowledge or belief in the regard.

ANSWER: _____

WITNESS CUSTODIAN OF RECORDS

I, _____, A Notary Public in and for the State of Texas do hereby certify that the foregoing answers of the witness were made by the said witness and sworn to and subscribed before me. The records attached hereto are exact duplicates of the original records.

GIVEN UNDER MY HAND AND SEAL on this the _____ day of _____ 20____.

Notary Public in and for the State of Texas

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ANTHONY CANTU AND RONALD LOREDO
ON BEHALF OF THEMSELVES AND A
CLASS OF THOSE SIMILARLY SITUATED

VS

MILBERGER LANDSCAPING, INC.

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CIVIL ACTION NO. 5:13-CV-731

NOTICE OF INTENTION TO TAKE DEPOSITION
BY WRITTEN QUESTIONS

TO:

EDMOND S. MORELAND JR

PHILIP J. MOSS


You will take notice that after 14 days from the service of a copy hereof with attached questions, a deposition by written questions will be taken of the CUSTODIAN OF EMPLOYMENT RECORDS for:

BILLY LONG ENTERPRISES INC
P.O. BOX 17261
SAN ANTONIO, TX 78217

at the offices of LORR, or at another agreed upon time and/or place before a Notary Public, an Officer of the State of Texas and employee of LORR, 503 E. Ramsey, Suite 201, San Antonio TX 78216, or their designated agent. Which deposition, with attached questions, may be used in evidence upon the trial of the above styled and numbered cause pending in the above named Court.

Notice is further given that request is here made as authorized under Rule 30 and 31, Federal Rules of Civil Procedure, to the Officer authorized to take this deposition to issue a SUBPOENA DUCES TECUM pursuant to FRCP 45 and cause to be served on the witness to produce for inspection and photocopying: ANY AND ALL RECORDS including but not limited to, employment records, any supervisor reports, W-2's, workers' compensation records, claims for unemployment compensation records, employment application forms, evaluations, payroll records, time cards, medical files, laboratory test results, pre-employment drug screen results and/or pre-employment specimen results, any subsequent drug screen results and/or subsequent specimen results, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced

pertaining to: ANTHONY CANTU, DOB: [REDACTED] 1969 and turn all such records over to the Officer authorized to take this deposition for inspection and photocopying, the same may be made by him and attached to said deposition.


GERALD T. DROUGHT, SBID: 06134800
MARTIN & DROUGHT PC
300 CONVENT STREET 26TH FLOOR
SAN ANTONIO, TX 78205-3789
Ph: (210) 227-7591 Fax: (210) 227-7924
ATTORNEY FOR THE DEFENDANT


CERTIFICATE OF SERVICE

I certify that a true and exact copy of the foregoing Notice of Intention to Take Deposition by Written Questions was provided to the respective parties or attorneys of record, pursuant to Rule 5(b) of the FRCP, by registered mail, postage prepaid or hand delivered.

Date:

2-24-14

By:


GERALD T. DROUGHT

8. Please state whether or not it was in the regular course of business for a person with personal knowledge of the acts, events, conditions, opinions, or other data recorded to make the record or to transmit information thereof to be included in such record?

ANSWER: _____

9. Were the entries of these memorandum, reports, records or data compilations made at, or shortly after the time of the transaction recorded of these entries?

ANSWER: _____

10. Were these records made and kept in the regular course of business?

ANSWER: _____

11. Please hand exact duplicates of: ANY AND ALL RECORDS including but not limited to, employment records, any supervisor reports, W-2's, workers' compensation records, claims for unemployment compensation records, employment application forms, evaluations, payroll records, time cards, medical files, laboratory test results, pre-employment drug screen results and/or pre-employment specimen results, any subsequent drug screen results and/or subsequent specimen results, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced pertaining to ANTHONY CANTU or the originals thereof for photocopying to the notary public taking your deposition for attachment to this deposition (This should include but is not limited to employment records, any supervisor reports, W-2's, workers' compensation records, employment application forms, evaluations, payroll records, time cards, medical files, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced). Have you now provided all your employment records and documents pertaining to ANTHONY CANTU? If not, identify for the notary public the records and documents you did not produce and explain why you did not produce them.

ANSWER: _____

12. Are there any other locations where records or documents pertaining to ANTHONY CANTU would be kept by BILLY LONG ENTERPRISES INC? If yes, please identify the name and address of that location if known.

ANSWER: _____

13. Have any records of any kind been destroyed or are any records missing? If yes, why? Please describe those records that have been destroyed or are missing by BILLY LONG ENTERPRISES INC.

ANSWER: _____

14 Have you been requested, directed, or has it ever been suggested by any person (whether employer, lawyer, or anyone else) that part of the records subject to this deposition be withheld or protected from discovery for any reason? If so, please state the name and address of the person who conveyed this information to you and when such event occurred.

ANSWER: _____

15. Do you know whether or not, or do you have any reason to believe that the records subject to this deposition have in any manner been edited, purged, culled, or in any other manner made different from the way such records existed when created? If so, please explain your knowledge or belief in the regard.

ANSWER: _____

WITNESS CUSTODIAN OF RECORDS

I, _____, A Notary Public in and for the State of Texas do hereby certify that the foregoing answers of the witness were made by the said witness and sworn to and subscribed before me. The records attached hereto are exact duplicates of the original records.

GIVEN UNDER MY HAND AND SEAL on this the _____ day of _____ 20____.

Notary Public in and for the State of Texas

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ANTHONY CANTU AND RONALD LOREDO
ON BEHALF OF THEMSELVES AND A
CLASS OF THOSE SIMILARLY SITUATED

VS

MILLBERGER LANDSCAPING, INC.

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CIVIL ACTION NO. 5:13-CV-731

NOTICE OF INTENTION TO TAKE DEPOSITION
BY WRITTEN QUESTIONS

TO:
EDMOND S. MORELAND JR

PHILIP J. MOSS


You will take notice that after 14 days from the service of a copy hereof with attached questions, a deposition by written questions will be taken of the CUSTODIAN OF EMPLOYMENT RECORDS for:

PS LANDSCAPES, INC
11114 MOTHERAL DR
AUSTIN, TX 78573

at the offices of LORR, or at another agreed upon time and/or place before a Notary Public, an Officer of the State of Texas and employee of LORR, 503 E. Ramsey, Suite 201, San Antonio TX 78216, or their designated agent. Which deposition, with attached questions, may be used in evidence upon the trial of the above styled and numbered cause pending in the above named Court.

Notice is further given that request is here made as authorized under Rule 30 and 31, Federal Rules of Civil Procedure, to the Officer authorized to take this deposition to issue a SUBPOENA DUCES TECUM pursuant to FRCP 45 and cause to be served on the witness to produce for inspection and photocopying: ANY AND ALL RECORDS including but not limited to, employment records, any supervisor reports, W-2's, workers' compensation records, claims for unemployment compensation records, employment application forms, evaluations, payroll records, time cards, medical files, laboratory test results, pre-employment drug screen results and/or pre-employment specimen results, any subsequent drug screen results and/or subsequent specimen results, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced

pertaining to: ANTHONY CANTU, DOB: [REDACTED] 1969 and turn all such records over to the Officer authorized to take this deposition for inspection and photocopying, the same may be made by him and attached to said deposition.


GERALD T. DROUGHT, SBID: 06134800
MARTIN & DROUGHT PC
300 CONVENT STREET 25TH FLOOR
SAN ANTONIO, TX 78205-3789
Ph: (210) 227-7591 Fax: (210) 227-7924
ATTORNEY FOR THE DEFENDANT

CERTIFICATE OF SERVICE

I certify that a true and exact copy of the foregoing Notice of Intention to Take Deposition by Written Questions was provided to the respective parties or attorneys of record, pursuant to Rule 5(b) of the FRCP, by registered mail, postage prepaid or hand delivered.

Date:

2-24-14

By:



GERALD T. DROUGHT

8. Please state whether or not it was in the regular course of business for a person with personal knowledge of the acts, events, conditions, opinions, or other data recorded to make the record or to transmit information thereof to be included in such record?

ANSWER: _____

9. Were the entries of these memorandum, reports, records or data compilations made at, or shortly after the time of the transaction recorded of these entries?

ANSWER: _____

10. Were these records made and kept in the regular course of business?

ANSWER: _____

11. Please hand exact duplicates of: ANY AND ALL RECORDS including but not limited to, employment records, any supervisor reports, W-2's, workers' compensation records, claims for unemployment compensation records, employment application forms, evaluations, payroll records, time cards, medical files, laboratory test results, pre-employment drug screen results and/or pre-employment specimen results, any subsequent drug screen results and/or subsequent specimen results, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced pertaining to ANTHONY CANTU or the originals thereof for photocopying to the notary public taking your deposition for attachment to this deposition (This should include but is not limited to employment records, any supervisor reports, W-2's, workers' compensation records, employment application forms, evaluations, payroll records, time cards, medical files, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced). Have you now provided all your employment records and documents pertaining to ANTHONY CANTU? If not, identify for the notary public the records and documents you did not produce and explain why you did not produce them.

ANSWER: _____

12. Are there any other locations where records or documents pertaining to ANTHONY CANTU would be kept by PS LANDSCAPES, INC? If yes, please identify the name and address of that location if known.

ANSWER: _____

13. Have any records of any kind been destroyed or are any records missing? If yes, why? Please describe those records that have been destroyed or are missing by PS LANDSCAPES, INC.

ANSWER: _____

14 Have you been requested, directed, or has it ever been suggested by any person (whether employer, lawyer, or anyone else) that part of the records subject to this deposition be withheld or protected from discovery for any reason? If so, please state the name and address of the person who conveyed this information to you and when such event occurred.

ANSWER: _____

15 Do you know whether or not, or do you have any reason to believe that the records subject to this deposition have in any manner been edited, purged, culled, or in any other manner made different from the way such records existed when created? If so, please explain your knowledge or belief in the regard.

ANSWER: _____

WITNESS CUSTODIAN OF RECORDS

I, _____, A Notary Public in and for the State of Texas do hereby certify that the foregoing answers of the witness were made by the said witness and sworn to and subscribed before me. The records attached hereto are exact duplicates of the original records.

GIVEN UNDER MY HAND AND SEAL on this the _____ day of _____ 20____.

Notary Public in and for the State of Texas

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ANTHONY CANTU AND RONALD LOREDO
ON BEHALF OF THEMSELVES AND A
CLASS OF THOSE SIMILARLY SITUATED

VS

CIVIL ACTION NO. 5:13-CV-731

MILBERGER LANDSCAPING, INC.

NOTICE OF INTENTION TO TAKE DEPOSITION
BY WRITTEN QUESTIONS

TO:
EDMOND S. MORELAND JR

PHILIP J. MOSS


You will take notice that after 14 days from the service of a copy hereof with attached questions, a deposition by written questions will be taken of the CUSTODIAN OF EMPLOYMENT RECORDS for:

SCHULTZ & COMPANY LANDSCAPES INC
5030 BACON RD
BOERNE, TX 78006

at the offices of LORR, or at another agreed upon time and/or place before a Notary Public, an Officer of the State of Texas and employee of LORR, 503 E. Ramsey, Suite 201, San Antonio TX 78216, or their designated agent. Which deposition, with attached questions, may be used in evidence upon the trial of the above styled and numbered cause pending in the above named Court.

Notice is further given that request is here made as authorized under Rule 30 and 31, Federal Rules of Civil Procedure, to the Officer authorized to take this deposition to issue a SUBPOENA DUCES TECUM pursuant to FRCP 45 and cause to be served on the witness to produce for inspection and photocopying: ANY AND ALL RECORDS including but not limited to, employment records, any supervisor reports, W-2's, workers' compensation records, claims for unemployment compensation records, employment application forms, evaluations, payroll records, time cards, medical files, laboratory test results, pre-employment drug screen results and/or pre-employment specimen results, any subsequent drug screen results and/or subsequent specimen results, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced

pertaining to: ANTHONY CANTU, DOB: [REDACTED] 1969 and turn all such records over to the Officer authorized to take this deposition for inspection and photocopying, the same may be made by him and attached to said deposition.


GERALD T. DROUGHT, SBID: 08134800
MARTIN & DROUGHT PC
300 CONVENT STREET 25TH FLOOR
SAN ANTONIO, TX 78205-3789
Ph: (210) 227-7591 Fax: (210) 227-7924
ATTORNEY FOR THE DEFENDANT


CERTIFICATE OF SERVICE

I certify that a true and exact copy of the foregoing Notice of Intention to Take Deposition by Written Questions was provided to the respective parties or attorneys of record, pursuant to Rule 5(b) of the FRCP, by registered mail, postage prepaid or hand delivered.

Date:

2-24-14

By:


GERALD T. DROUGHT

8. Please state whether or not it was in the regular course of business for a person with personal knowledge of the acts, events, conditions, opinions, or other data recorded to make the record or to transmit information thereof to be included in such record?

ANSWER: _____

9. Were the entries of these memorandum, reports, records or data compilations made at, or shortly after the time of the transaction recorded of these entries?

ANSWER: _____

10. Were these records made and kept in the regular course of business?

ANSWER: _____

11. Please hand exact duplicates of: ANY AND ALL RECORDS including but not limited to, employment records, any supervisor reports, W-2's, workers' compensation records, claims for unemployment compensation records, employment application forms, evaluations, payroll records, time cards, medical files, laboratory test results, pre-employment drug screen results and/or pre-employment specimen results, any subsequent drug screen results and/or subsequent specimen results, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced pertaining to ANTHONY CANTU or the originals thereof for photocopying to the notary public taking your deposition for attachment to this deposition (This should include but is not limited to employment records, any supervisor reports, W-2's, workers' compensation records, employment application forms, evaluations, payroll records, time cards, medical files, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced). Have you now provided all your employment records and documents pertaining to ANTHONY CANTU? If not, identify for the notary public the records and documents you did not produce and explain why you did not produce them.

ANSWER: _____

12. Are there any other locations where records or documents pertaining to ANTHONY CANTU would be kept by SCHULTZ & COMPANY LANDSCAPES INC? If yes, please identify the name and address of that location if known.

ANSWER: _____

13. Have any records of any kind been destroyed or are any records missing? If yes, why? Please describe those records that have been destroyed or are missing by SCHULTZ & COMPANY LANDSCAPES INC.

ANSWER: _____

14 Have you been requested, directed, or has it ever been suggested by any person (whether employer, lawyer, or anyone else) that part of the records subject to this deposition be withheld or protected from discovery for any reason? If so, please state the name and address of the person who conveyed this information to you and when such event occurred.

ANSWER: _____

15 Do you know whether or not, or do you have any reason to believe that the records subject to this deposition have in any manner been edited, purged, culled, or in any other manner made different from the way such records existed when created? If so, please explain your knowledge or belief in the regard.

ANSWER: _____

WITNESS CUSTODIAN OF RECORDS

I, _____, A Notary Public in and for the State of Texas do hereby certify that the foregoing answers of the witness were made by the said witness and sworn to and subscribed before me. The records attached hereto are exact duplicates of the original records.

GIVEN UNDER MY HAND AND SEAL on this the _____ day of _____ 20____.

Notary Public in and for the State of Texas

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ANTHONY CANTU AND RONALD
LOREDO ON BEHALF OF
THEMSELVES AND A CLASS OF
THOSE SIMILARLY SITUATED

MILBERGER LANDSCAPING, INC.

CIVIL ACTION NO. 5:13-CV-731

QUESTIONS TO BE PROPOUNDED TO THE WITNESS,
THE CUSTODIAN OF EMPLOYMENT RECORDS FOR: BLUE GREEN LANDSCAPING AND FENCING

1. Please state your full name, occupation, and/or official title.

ANSWER:

2. Did you receive a subpoena duces tecum for the production of: ANY AND ALL RECORDS including but not limited to, employment records, any supervisor reports, W-2's, workers' compensation records, claims for unemployment compensation records, employment application forms, evaluations, payroll records, time cards, medical files, laboratory test results, pre-employment drug screen results and/or pre-employment specimen results, any subsequent drug screen results and/or subsequent specimen results, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced pertaining to ANTHONY CANTU?

ANSWER:

3. Do you understand the subpoena requests all records referenced in Question # 2 pertaining to ANTHONY CANTU and is not limited to just records and documents related to what you feel forms the basis for this lawsuit nor is it limited in scope or time or as to the type of record or document?

ANSWER:

4. Has ANTHONY CANTU ever been employed by BLUE GREEN LANDSCAPING AND FENCING?

ANSWER:

5. Has BLUE GREEN LANDSCAPING AND FENCING made or caused to be made any memorandum, report, record or data compilation, in any form, of the employment and/or interview of the person in question?

ANSWER:

6. Are these memorandum, reports, records or data compilations under your care, supervision, direction, custody and/or control?

ANSWER:

7. Were these memorandum, reports, records or data compilations made by BLUE GREEN LANDSCAPING AND FENCING?

ANSWER:

8. Please state whether or not it was in the regular course of business for a person with personal knowledge of the acts, events, conditions, opinions, or other data recorded to make the record or to transmit information thereof to be included in such record?

ANSWER: _____

9. Were the entries of these memorandum, reports, records or data compilations made at, or shortly after the time of the transaction recorded of these entries?

ANSWER: _____

10. Were these records made and kept in the regular course of business?

ANSWER: _____

11. Please hand exact duplicates of: ANY AND ALL RECORDS including but not limited to, employment records, any supervisor reports, W-2's, workers' compensation records, claims for unemployment compensation records, employment application forms, evaluations, payroll records, time cards, medical files, laboratory test results, pre-employment drug screen results and/or pre-employment specimen results, any subsequent drug screen results and/or subsequent specimen results, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced pertaining to ANTHONY CANTU or the originals thereof for photocopying to the notary public taking your deposition for attachment to this deposition (This should include but is not limited to employment records, any supervisor reports, W-2's, workers' compensation records, employment application forms, evaluations, payroll records, time cards, medical files, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced). Have you now provided all your employment records and documents pertaining to ANTHONY CANTU? If not, identify for the notary public the records and documents you did not produce and explain why you did not produce them.

ANSWER: _____

12. Are there any other locations where records or documents pertaining to ANTHONY CANTU would be kept by BLUE GREEN LANDSCAPING AND FENCING? If yes, please identify the name and address of that location if known.

ANSWER: _____

13. Have any records of any kind been destroyed or are any records missing? If yes, why? Please describe those records that have been destroyed or are missing by BLUE GREEN LANDSCAPING AND FENCING.

ANSWER: _____

14 Have you been requested, directed, or has it ever been suggested by any person (whether employer, lawyer, or anyone else) that part of the records subject to this deposition be withheld or protected from discovery for any reason? If so, please state the name and address of the person who conveyed this information to you and when such event occurred.

ANSWER: _____

15 Do you know whether or not, or do you have any reason to believe that the records subject to this deposition have in any manner been edited, purged, culled, or in any other manner made different from the way such records existed when created? If so, please explain your knowledge or belief in the regard.

ANSWER: _____

WITNESS CUSTODIAN OF RECORDS

I, _____, A Notary Public in and for the State of _____ do hereby certify that the foregoing answers of the witness were made by the said witness and sworn to and subscribed before me. The records attached hereto are exact duplicates of the original records.

GIVEN UNDER MY HAND AND SEAL on this the _____ day of _____, 20____.

Notary Public in and for the State of _____

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ANTHONY CANTU AND RONALD LOREDO
ON BEHALF OF THEMSELVES AND A
CLASS OF THOSE SIMILARLY SITUATED

VS

MELBERGER LANDSCAPING, INC.

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§
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§
§
§
§
§

CIVIL ACTION NO. 5:13-CV-731

NOTICE OF INTENTION TO TAKE DEPOSITION
BY WRITTEN QUESTIONS

TO:
EDMOND S. MORELAND JR

PHILIP J. MOSS

You will take notice that after 14 days from the service of a copy hereof with attached questions, a deposition by written questions will be taken of the CUSTODIAN OF EMPLOYMENT RECORDS for:

C & M LANDSCAPE DESIGN LLC
6904 DECLARATION ST
WATAUGA, TX 76148

at the offices of LORR, or at another agreed upon time and/or place before a Notary Public, an Officer of the State of Texas and employee of LORR, 503 E. Ramsey, Suite 201, San Antonio TX 78216, or their designated agent. Which deposition, with attached questions, may be used in evidence upon the trial of the above styled and numbered cause pending in the above named Court.

Notice is further given that request is here made as authorized under Rule 30 and 31, Federal Rules of Civil Procedure, to the Officer authorized to take this deposition to issue a SUBPOENA DUCES TECUM pursuant to FRCP 45 and cause to be served on the witness to produce for inspection and photocopying: ANY AND ALL RECORDS including but not limited to, employment records, any supervisor reports, W-2's, workers' compensation records, claims for unemployment compensation records, employment application forms, evaluations, payroll records, time cards, medical files, laboratory test results, pre-employment drug screen results and/or pre-employment specimen results, any subsequent drug screen results and/or subsequent specimen results, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced

pertaining to: ANTHONY CANTU, DOB: [REDACTED] 1969 and turn all such records over to the Officer authorized to take this deposition for inspection and photocopying, the same may be made by him and attached to said deposition.



GERALD T. DROUGHT, SBID: 06134800
MARTIN & DROUGHT PC
300 CONVENT STREET 25TH FLOOR
SAN ANTONIO, TX 78205-3789
Ph: (210) 227-7591 Fax: (210) 227-7924
ATTORNEY FOR THE DEFENDANT

CERTIFICATE OF SERVICE

I certify that a true and exact copy of the foregoing Notice of Intention to Take Deposition by Written Questions was provided to the respective parties or attorneys of record, pursuant to Rule 5(b) of the FRCP, by registered mail, postage prepaid or hand delivered.

Date:

2-24-14

By:

GERALD T. DROUGHT

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ANTHONY CANTU AND RONALD
LOREDO ON BEHALF OF
THEMSELVES AND A CLASS OF
THOSE SIMILARLY SITUATED

CIVIL ACTION NO. 5:13-CV-731

MILBERGER LANDSCAPING, INC.

QUESTIONS TO BE PROPOUNDED TO THE WITNESS,
THE CUSTODIAN OF EMPLOYMENT RECORDS FOR: C & M LANDSCAPE DESIGN LLC

1. Please state your full name, occupation, and/or official title.

ANSWER:

2. Did you receive a subpoena duces tecum for the production of: ANY AND ALL RECORDS including but not limited to, employment records, any supervisor reports, W-2's, workers' compensation records, claims for unemployment compensation records, employment application forms, evaluations, payroll records, time cards, medical files, laboratory test results, pre-employment drug screen results and/or pre-employment specimen results, any subsequent drug screen results and/or subsequent specimen results, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced pertaining to ANTHONY CANTU?

ANSWER:

3. Do you understand the subpoena requests all records referenced in Question # 2 pertaining to ANTHONY CANTU and is not limited to just records and documents related to what you feel forms the basis for this lawsuit nor is it limited in scope or time or as to the type of record or document?

ANSWER:

4. Has ANTHONY CANTU ever been employed by C & M LANDSCAPE DESIGN LLC?

ANSWER:

5. Has C & M LANDSCAPE DESIGN LLC made or caused to be made any memorandum, report, record or data compilation, in any form, of the employment and/or interview of the person in question?

ANSWER:

6. Are these memorandum, reports, records or data compilations under your care, supervision, direction, custody and/or control?

ANSWER:

7. Were these memorandum, reports, records or data compilations made by C & M LANDSCAPE DESIGN LLC?

ANSWER:

62705.1

File #:

DW

8. Please state whether or not it was in the regular course of business for a person with personal knowledge of the acts, events, conditions, opinions, or other data recorded to make the record or to transmit information thereof to be included in such record?

ANSWER:

9. Were the entries of these memorandum, reports, records or data compilations made at, or shortly after the time of the transaction recorded of these entries?

ANSWER:

10. Were these records made and kept in the regular course of business?

ANSWER:

11. Please hand exact duplicates of: ANY AND ALL RECORDS including but not limited to, employment records, any supervisor reports, W-2's, workers' compensation records, claims for unemployment compensation records, employment application forms, evaluations, payroll records, time cards, medical files, laboratory test results, pre-employment drug screen results and/or pre-employment specimen results, any subsequent drug screen results and/or subsequent specimen results, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced pertaining to ANTHONY CANTU or the originals thereof for photocopying to the notary public taking your deposition for attachment to this deposition (This should include but is not limited to employment records, any supervisor reports, W-2's, workers' compensation records, employment application forms, evaluations, payroll records, time cards, medical files, disability claims and attendance records, any type of insurance records, office notes, records of telephone conversations and any handwritten notes which have not already been produced). Have you now provided all your employment records and documents pertaining to ANTHONY CANTU? If not, identify for the notary public the records and documents you did not produce and explain why you did not produce them.

ANSWER:

12. Are there any other locations where records or documents pertaining to ANTHONY CANTU would be kept by C & M LANDSCAPE DESIGN LLC? If yes, please identify the name and address of that location if known.

ANSWER:

13. Have any records of any kind been destroyed or are any records missing? If yes, why? Please describe those records that have been destroyed or are missing by C & M LANDSCAPE DESIGN LLC.

ANSWER:

14 Have you been requested, directed, or has it ever been suggested by any person (whether employer, lawyer, or anyone else) that part of the records subject to this deposition be withheld or protected from discovery for any reason? If so, please state the name and address of the person who conveyed this information to you and when such event occurred.

ANSWER: _____

15 Do you know whether or not, or do you have any reason to believe that the records subject to this deposition have in any manner been edited, purged, culled, or in any other manner made different from the way such records existed when created? If so, please explain your knowledge or belief in the regard.

ANSWER: _____

WITNESS CUSTODIAN OF RECORDS

I, _____, A Notary Public in and for the State of Texas do hereby certify that the foregoing answers of the witness were made by the said witness and sworn to and subscribed before me. The records attached hereto are exact duplicates of the original records.

GIVEN UNDER MY HAND AND SEAL on this the _____ day of _____ 20____.

Notary Public in and for the State of Texas